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7 FIDELITY NATIONAL TITLE INSURANCE COMPANY  
AND CHICAGO TITLE INSURANCE COMPANY  
8

9 **UNITED STATES DISTRICT COURT**

10 **DISTRICT OF NEVADA**

11 CHRISTIANA TRUST, A DIVISION OF  
WILMINGTON SAVINGS FUND  
12 SOCIETY, FSB, NOT IN ITS INDIVIDUAL  
CAPACITY BUT AS TRUSTEE OF ARLP  
TRUST 3,

13 Plaintiff,

14 vs.

15 FIDELITY NATIONAL TITLE  
16 INSURANCE COMPANY, et al.

17 Defendants.

Case No.: 2:19-cv-00385-JAD-VCF

**STIPULATION AND  
ORDER TO STAY CASE PENDING  
APPEAL**

ECF Nos. 26, 27

18 Plaintiff Christiana Trust, a Division of Wilmington Savings Fund Society, FSB, not in its  
19 Individual Capacity but as Trustee of ARLP Trust 3 (“Bank”) and defendants Fidelity National  
20 Title Insurance Company and Chicago Title Insurance Company (“Insurers”) (collectively, the  
21 “Parties”), by and through their undersigned counsel, stipulate and agree as follows, subject to the  
22 approval of the District Court:

23 **WHEREAS**, there are now currently pending in the United States District Court for the  
24 District of Nevada more than three dozen actions between national banks, on the one hand, and  
25 their title insurers, on the other hand (the “Actions”);

26 **WHEREAS**, each of the Actions involves a title insurance coverage dispute wherein the  
27 national bank contends, and the title insurer disputes, that a title insurance claim involving an



HOA assessment lien and subsequent sale was covered by a policy of title insurance;

**WHEREAS**, in virtually all of these Actions, the title insurer underwrote an ALTA 1992 loan policy of title insurance with form 1 coverage, along with the CLTA 100/ALTA 9 Endorsement and either the CLTA 115.1/ALTA 4 Endorsement or the CLTA 115.2/ALTA 5 Endorsement (the “Form Policy”);

**WHEREAS**, each of the Actions implicates common questions of interpretation of the Form Policy;

**WHEREAS**, the national bank in one of these actions has now appealed a judgment of dismissal to the Ninth Circuit Court of Appeals, *Wells Fargo Bank, N.A. v. Fidelity National Title Ins. Co.*, Ninth Cir. Case No. 19-17332 (District Court Case No. 3:19-cv-00241-MMD-WGC) (the “*Wells Fargo II Appeal*”);

**WHEREAS**, the Parties anticipate that the Ninth Circuit Court of Appeals’ decision in the *Wells Fargo II Appeal* will likely touch upon issues regarding the interpretation of the Form Policy and the reasonableness of the insurer’s denial, that could potentially affect the disposition of the other Actions, including the instant action;

**WHEREAS**, Insurers previously moved to stay the instant action pending the disposition of the *Wells Fargo II Appeal* (the “Motion to Stay”);

**WHEREAS** of the Parties intend that the instant Stipulation is to withdraw and replace the previously filed Motion to Stay;

**WHEREAS** the Parties agree that it is appropriate and desirous to stay the instant action pending the disposition of the *Wells Fargo II Appeal*, that a stay of the instant action will not prejudice either of the Parties, and that a stay of the instant action will best serve the interests of judicial economy (given the possibility that the Ninth Circuit Court of Appeals’ decision on the *Wells Fargo II Appeal* might affect the disposition of this case);

**NOW THEREFORE**, the Parties, by and through their undersigned counsel, hereby stipulate and agree as follows:

1. The instant action shall immediately be **STAYED**, pending the disposition of the *Wells Fargo II Appeal*.



- 1           2. The scheduling order previously entered in this action is hereby **VACATED**.  
2           3. Each of the Parties shall be excused from responding to any now-outstanding  
3           discovery requests propounded by another until after the stay is lifted.  
4           4. Any now-pending deadlines to file responses to, or replies in support of, any  
5           outstanding motions are hereby **VACATED**.  
6           5. By entering into this stipulation, the Parties are not waiving any right they may have to  
7           subsequently move the Court for an order lifting the stay in this action.

8       Dated this 25th day of November 2019

EARLY SULLIVAN WRIGHT  
GIZER & McRAE LLP

*/s/--Kevin S. Sinclair*

10           By: \_\_\_\_\_  
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TITLE INSURANCE COMPANY AND CHICAGO  
TITLE INSURANCE COMPANY

16       Dated this 25th day of November 2019

WRIGHT, FINLAY & ZAK, LLP

*/s/--Lindsay D. Robbins*

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DIVISION OF WILMINGTON SAVINGS FUND  
SOCIETY, FSB, NOT IN ITS INDIVIDUAL  
CAPACITY BUT AS TRUSTEE OF ARLP TRUST 3

**ORDER**

26       Based on this stipulation [ECF No. 27] and good cause appearing, IT IS SO ORDERED;  
27       **THIS ACTION IS STAYED**, and any party may move to lift stay under the terms of this  
stipulation. The Motion to Stay [ECF No. 26] is **DENIED as moot**.

U.S. District Judge 12-10-19